

# **SECTION 7**

**LEAVE**

## Leave Without Pay (LWOP)

### Starting LWOP

If an employee is on leave without pay and he/she has pay during the month the leave starts, he/she will be eligible for the employer contribution for health insurance for the following month. However, if the pay the employee receives is not sufficient to cover the employee's portion of the premium, he/she will submit a check for the amount due.

If an employee is on leave without pay and he/she does not have pay during a month, he/she will not be eligible for the employer contribution for health insurance for the following month. In this case, the employee must pay the total premium amount (employer and employee portion, if applicable) to continue his/her health insurance coverage.

Any portion of a premium due by the employee must be submitted to the Insurance Coordinator by the 20<sup>th</sup> of the month.

The check must be payable to the appropriate Insurance Carrier.

The Insurance Coordinator will forward the payment to the appropriate Insurance Carrier.

**NOTE:** If the employee fails to submit appropriate premium payments due within the specified deadline, the Insurance Carrier may cancel the ENTIRE POLICY. If this occurs, the Insurance Coordinator should request a refund of any employer contribution amount paid.

### Thirty (30) or more working days:

If an employee is on leave without pay for thirty (30) or more working days:

- The Insurance Coordinator must submit an Update Form to the OPEHI providing the employee's LWOP begin date and the health insurance coverage termination date.
- If the employee is enrolled in a cross-reference plan, the cross-reference must be broken. The OPEHI will notify the spouse's Insurance Coordinator that one of the cross-reference employees is on LWOP and that a health insurance application is needed from his/her employee. If the necessary application is not received by the OPEHI within the deadline, the health insurance coverage will be changed as follows:
  - A Family cross-reference plan will be assigned to a Family non cross-reference plan
  - A Couple cross-reference plan will be assigned to a Couple non cross-reference plan

- The Insurance Coordinator must notify the employee about his/her COBRA rights.

### **During LWOP**

While an employee is on LWOP, the following could occur:

#### **There is an Open Enrollment Period:**

If an employee is on LWOP during Open Enrollment, the Insurance Coordinator does not need to send him/her an open enrollment packet.

If the employee did not elect COBRA, he/she is not eligible for health insurance under the Public Employee Health Insurance Program until he/she returns to work.

If the employee elected COBRA, the health insurance carrier will send him/her the Open Enrollment information.

Upon returning to work, the employee is entitled to receive the Open Enrollment information from the Insurance Coordinator. The employee will have thirty (30) days from the date he/she returns to work to apply for his/her Open Enrollment selections.

#### **The employee experiences a Qualifying Event:**

If an employee on LWOP experiences a Qualifying Event, the same status change rules apply – he/she must request the mid-year election change within the required time limits for such requests (thirty (30) days from the event, except for adding a newborn (only), which is sixty (60) days).

The Insurance Coordinator will keep the Qualifying Event application on file until the employee returns to work. At that time, the employee's application will be sent to the OPEHI for processing.

The same rules as defined in this Section under Returning from LWOP will be applied to determine the effective date of coverage.

## **Returning from LWOP**

### **Eligibility for Employer Contribution**

An employee who returns to work after being on LWOP must work at least one day in the month he/she returns to be eligible to receive the employer contribution for health insurance for the following month.

If the employee does not work more than one day in the month he/she returns, the first day of the second month rule applies.

### **Eligibility for Coverage Changes**

An employee who returns to work after being on LWOP will not be eligible to make any changes to the health insurance coverage in which he/she was enrolled prior to the LWOP unless one of the following has occurred:

- The employee experiences a Qualifying Event and he/she applies for an appropriate change following the guidelines described in the Qualifying Event Chart in Section 3.
- The employee returns in a new plan year or after the open enrollment period and he/she applies for a coverage change no later than thirty (30) days after his/her return.

The Insurance Coordinator must provide the necessary applications upon return.

- The coverage in which the employee was enrolled prior to the beginning of the LWOP is not available upon his/her return. The employee will have no more than thirty (30) days after his/her return to apply for an appropriate change. If the employee does not request the change, he/she will be subject to the auto-assignment guidelines.

The Insurance Coordinator must provide the necessary applications upon return.

## **Family Medical Leave Act (FMLA)**

The Family and Medical Leave Act of 1993 (FMLA) requires employers to provide up to twelve (12) weeks of job-protected leave for certain family and medical reasons. An employee is eligible for FMLA leave if he/she has completed twelve (12) months of service and worked or been on paid leave at least 1,250 hours in the twelve (12) months preceding the first day of FMLA leave. This leave is available annually.

The employee may choose to use paid (annual, sick or compensatory) leave concurrently

with FMLA leave. **[101 KAR 2:102]** The employee may choose to use unpaid leave during the FMLA leave. The employee may choose to reserve ten (10) days of accumulated sick leave prior to being placed on FMLA leave.

When the employee is granted FMLA leave, the Insurance Coordinator should send the "Employee on FMLA leave" memo (refer to Appendix C-6).

### **Starting FMLA Leave**

- FMLA Leave is not a qualifying event to change health insurance.
- When an employee begins FMLA leave, the employer contribution for health insurance is to continue through the leave period.
- The employee is responsible for the employee's share of the health insurance premiums. The employee may choose to:
  - Cease contributions (terminates entire policy);
  - Prepay the coverage contributions for the FMLA leave period;
  - Choose the pay-as-you-go method. If the employee chooses this method of payment:
    - The employee's contribution is due at the same time the contribution would be due if made by payroll deduction;
    - If the employee fails to pay timely, he/she will be granted a thirty (30) day grace period;
    - If the employee fails to pay the required amount by the end of the thirty(30) day grace period, the policy will be automatically terminated back to the last date through which premium was paid; or
  - Choose the catch-up option, which should be agreed to by both parties PRIOR to the FMLA leave.
- The Insurance Coordinator is to collect the premium check (made payable to the insurance carrier) and forward it to the carrier. The Insurance Coordinator is to collect and process all premium checks while the employee is on FMLA leave.

### **During FMLA**

While an employee is on FMLA, the following could occur:

#### **There is an Open Enrollment Period:**

If an employee is on FMLA during Open Enrollment, the Insurance Coordinator must send him/her an open enrollment packet.

If the employee chose to cease contributions, he/she is not eligible for health insurance under the Public Employee Health Insurance Program until he/she returns to work.

**The employee experiences a Qualifying Event:**

If an employee on FMLA experiences a Qualifying Event, the same status change rules apply – he/she must request the mid-year election change within the required time limits for such requests (thirty (30) days from the event, except for adding a newborn (only), which is sixty (60) days).

The Insurance Coordinator will keep the Qualifying Event application on file until the employee returns to work. At that time, the employee's application will be sent to the OPEHI for processing.

The same rules as defined in the "Returning from FMLA section" will be applied to determine the effective date of coverage.

**Returning from FMLA Leave**

- The employee must be reinstated to the prior elections unless there has been an intervening status change event (birth, adoption, etc.), in which case, the employee is held to the same thirty (30) day rule for requesting the coverage change.
- If the employee chose to suspend health insurance coverage during the FMLA leave, the employee is to be reinstated to the prior elections.
- If the employee had coverage cancelled due to non-payment of premiums, the employee is to be reinstated to the prior elections upon payment of all past-due premiums.
- If the employee chose suspension of coverage or fails to pay past-due premiums, the agency is to request a refund of the employer contribution for the applicable months.

**Not returning from FMLA Leave**

- When an employee has exhausted FMLA leave, but does not return to work (begins LWOP), the Insurance Coordinator must notify the employee of his/her COBRA rights, regardless of the employee's insurance status during the FMLA leave.
- For purposes of COBRA, the date of this COBRA Qualifying Event is the date the FMLA leave ends. The employee is eligible for eighteen (18) months of COBRA coverage.

## **Paid Leave**

An employee who has worked or been on paid leave (annual, sick or compensatory time) for at least one day during a month will be eligible for the state contribution for health benefits for the following month.

## **Military Leave**

An employee called to active military duty is eligible for health benefits through the United States Government. His/her dependents may also be eligible for military health insurance.

### **Starting Military Leave**

An employee may “stop” his/her health insurance coverage on the last day of the month in which he/she activates with armed services.

An employee may elect to maintain his/her current level of health insurance coverage as well as maintain military health care coverage.

**NOTE:** Refer to the Qualifying Event Chart regarding Flexible Spending Accounts during Military Leave.

**If an employee has single coverage through the Public Employee Health Insurance Program and is using paid leave or has not been removed from the payroll via formal action:**

1. an employee may “Stop” his/her health insurance coverage on the last day of the month in which he/she activates with armed services. This option will allow an employee to “Start” his/her health insurance coverage immediately upon return to public employment. This Stop and Start process will in no way negatively impact an employee with regard to pre-existing conditions application to claims for service under the OPEHI policy.
2. If an employee elects to maintain his/her current level of health insurance coverage, as well as maintain military health care coverage, the employee must insure that the applicable premiums are available via payroll deduction or are received by his/her Insurance Coordinator no later than the 15<sup>th</sup> day of the month preceding the coverage month.

**If an employee has coverage for dependents through the Public Employee Health Insurance Program:**

1. an employee may elect to maintain his/her current level of health insurance coverage and insure that the applicable premiums are available via payroll deduction or are received by his/her Insurance Coordinator no later than the 15th day of the month preceding the coverage month.
2. an employee may "Stop" his/her health insurance coverage on the last day of the month in which he/she activates with the armed services. This option will allow the employee to "Start" his/her health insurance upon return to public employment. This Stop and Start process will in no way negatively impact an employee with regard to pre-existing conditions application to claims for service under the OPEHI policy.

An employee called to active duty must elect one of the preceding options for his/her health insurance during the time he/she is activated. The only option that may be affected by the minimum or maximum length of activation is dependent coverage and the employee is responsible for that verification. All premiums due upon return from active duty will be determined by the date of return to active employment.

Please contact the OPEHI Member Services Branch with questions surrounding this issue. Please direct all payroll related questions to the appropriate payroll manager.

**During Military Leave**

If an employee elects to maintain his/her health insurance while on leave, he/she must ensure that the applicable premiums are available via payroll deduction or are received by his/her Insurance Coordinator no later than the 15<sup>th</sup> day of the month preceding the coverage month.

**Returning from Military Leave**

An employee returning from Military Leave will have all benefits (Health Insurance and Flexible Spending Accounts) reinstated upon his/her return, effective the date they return, (first day of the second month rule does not apply) without any waiting period for pre-existing conditions.

**NOTE:** An employee returning from Military Leave may delay the effective date until military coverage ends (employee's option).

An employee returning between the first (1<sup>st</sup>) and the fifteenth (15<sup>th</sup>) of the month will need



to pay the employee portion (family, couple, parent plus or single, if applicable) of the insurance premium for the month of return. An employee returning on the sixteenth (16<sup>th</sup>) of the month or later will be exempt from paying the premium for the month of return. In both cases, the employee will pay the premium for subsequent months.